

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL No. 99-322 (PG)

JOSE DELESTRE-REYES

Defendant.

**URGENT MOTION REQUESTING APPOINTMENT OF COUNSEL
AND ORDER TO PROVIDE RETROACTIVITY PACKAGE**

TO THE HONORABLE JUAN PEREZ GIMENEZ
UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT OF PUERTO RICO

COMES NOW *José Delestre-Reyes*, the defendant herein, represented by the Federal Public Defender for the District of Puerto Rico through the undersigned attorney, and very respectfully states, alleges and prays as follows:

1. The defendant, Mr. Delestre was sentenced by this Honorable Court on January 8th, 2001 after he sustained a controlled substances conviction. The controlled substance involved in Mr. Delestre's case was cocaine base better known as crack.

2. As the Court is aware, on November 1, 2007, the United States Sentencing Commission lowered the offense level for crack cocaine by two levels pursuant to Amendments # 706 and 711. See USSG. App. C, amends. 706, 711 (Nov. 1, 2007). Said amendment was made retroactive effective March 3, 2008. See USSG. § 1B1.10.

3. Upon a preliminary review of Mr. Delestre's case, it has been determined that he may qualify for a sentencing reduction based on the Sentencing Commission's amendment

to the crack guidelines. Therefore, he intends to move the Court for said reduction pursuant to 18 U.S.C. § 3582(c).

4. To do so, the defendant has requested the assistance of the Federal Public Defender to represent him so that the pertinent reduction of sentence motion be filed by an attorney on his behalf.¹

5. Accordingly, it is the request of the defendant that the Office of the Federal Public Defender be appointed to represent him in this matter.

6. Furthermore, the Court must be made aware that if eligible for a sentencing reduction, the defendant might be entitled for immediate release. Therefore, it is respectfully requested that the United States Probation Office be ordered to provide a retroactivity package expeditiously, so that a final determination of eligibility be made.² Thereafter, the undersigned attorney will procure to meet with the United States to negotiate a stipulation regarding the sentencing reduction.

WHEREFORE, it is respectfully requested that this Honorable Court take notice of the present motion and that the same be granted in all respects.

¹Please Note that the Administrative Directive issued by the Chief Judge of the United States District Court for the District of Puerto Rico under Misc. No. 08-31 (JAF) indicates at page 9 that the Federal Public Defender's office is appointed as default defense counsel for all pro-se filings. However, the Administrative Directive is silent as to the proper procedure for the appointment of counsel in cases where the Office of the Federal Public Defender has been contacted for assistance in pursuing sentencing reductions based on the crack amendment.

²The defendant is aware that pursuant to the Administrative Directive cited above, the United States Probation Office has a 10-day period to provide the retroactivity package once a motion for reduction of sentence is notified. However, in this type of case where a reduction if granted produces the immediate release of the defendant, it is submitted that the package should be produced at an earlier date.

I HEREBY CERTIFY that on this date I electronically filed the present motion with the Clerk of Court using the CM/ECF system, which will send notification to all parties of record including the United States Attorney's Office.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 18th day of March, 2008.

JOSEPH C. LAWS, JR.
Federal Public Defender
District of Puerto Rico

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